IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 7930 OF 2005

IN

CRIMINAL APPEAL NO. OF 2005

The State of Maharashtra Applicant

(Orig. complainant)

Versus

Krishna Govindsa Bakale & Ors. Respnodents

(Orig.Accused 1 to 3)

Mr. D.P.Adsule, APP, for the Applicant-State.

CORAM: J.H.BHATIA,J.

DATE : 28th June, 2007.

P.C.

1. Heard Mr. Adsule, learned APP.

2. The State has filed this Application seeking leave to prefer an appeal against the order of acquittal for the offences punishable under Sections 451, 323, 324, 427 read with Section 34 I.P.C.

2. According to the prosecution, on 2.2.2000 at about 6.00 a.m., the complainant was washing her mouth in front of her house. Due to this, accused No.2 - Meenakshi got annoyed. She abused P.W.3 Bharti. However, Bharti asked the complainant not to abuse. After that accused Nos. 1 to 4 entered the house of the complainant and accused No.3 - Rajendra gave blow to the complainant. Accused Nos. 1 and 2 slapped and accused No.4 sat on the chest of P.W.2. The evidence on record reveals that P.W.1 Jairam and P.W.2 Mohan had suffered some injuries. However, admittedly, none of the injuries was caused by any sharp and cutting weapon. The learned trial Court, after hearing evidence acquitted the accused persons. The trial Court observed in para 16 of the judgment that two independent eye-witnesses P.W.6 and P.W.7 had deposed that scuffle had taken place between the complainant and the accused and the trial Court observed that the complainant might have suffered injuries during the scuffle.

3. Taking into consideration the evidence on record, no offence under Section 324 I.P.C. could have been proved because it was not even the prosecution case that any of the accused had used any sharp and cutting weapon. There was exchange of hot words and abuses resulting in scuffle. At the most, the case could be under Section 323 I.P.C. The learned trial Court has

given reason for not believing the prosecution story. In view of the reasons given by the trial Court and the offence under Section 323 I.P.C., I find no justification to grant leave to prefer appeal.

4. Hence, leave refused. The Application stands rejected.

(J.H.BHATIA,J.)

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